

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**OMG, LP, JOHN GALLO, and GREG
MARTIN,**

Plaintiffs,

v.

HERITAGE AUCTIONS, INC.,

Defendant.

§
§
§
§
§
§
§
§
§
§

Civil Action No. **3:13-CV-1404-L**

ORDER

Before the court are Plaintiffs' Motion to Vacate Final Arbitration Award, filed April 8, 2013; and Heritage's Motion to Confirm Arbitration Award, filed April 29, 2013. On April 29, 2013, and May 1, 2013, the court referred both motions for findings and recommendations to the Honorable United States Magistrate Judge Irma Carrillo Ramirez.

On January 22, 2014, the Findings, Conclusions, and Recommendation of the United States Magistrate Judge ("Report") was issued. The Magistrate Judge recommended that Plaintiffs' Motion to Vacate Final Arbitration Award be granted and that Heritage's Motion to Confirm Arbitration Award be denied.

On February 5, 2014, Heritage's Objections to the Findings, Conclusions, and Recommendation of the United States Magistrate Judge were filed. Plaintiffs filed a response to Heritage's objections. On March 21, 2014, Heritage's Supplemental Authority was filed. The bases of Heritage's objections to the Report are grounded on the following:

1. The Recommendation ignores the contractual language that gave the Arbitrator the authority to rule as he did;

2. Plaintiffs tried the formation issue by consent and therefore waived their objection to the Arbitrator's authority; and

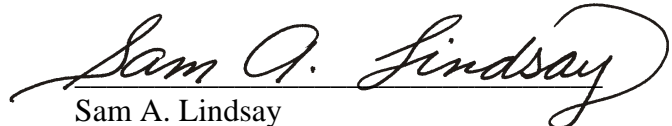
3. The Recommendation failed to account for the posture of this case and therefore misapplies the law.

Heritage's Objs. to the Findings, Conclusions, & Recomm. of the U.S.M.J. 2.

The court conducted an independent review of the Report, and based upon the record, arguments of the parties, and applicable law, the court **determines** that the findings, and conclusions of the magistrate judge are **correct**.^{*} Accordingly, they are accepted as the findings and conclusions of the court, and the court **overrules** Heritage's objections.

For the reasons herein stated and those set forth in the Report, the court **grants** Plaintiffs' Motion to Vacate Final Arbitration Award and **denies** Heritage's Motion to Confirm Arbitration Award. Accordingly, the court **vacates** the arbitration award of January 9, 2013, and **remands** this action to the American Arbitration Association for further proceedings consistent with this order. All allowable and reasonable costs will be taxed against Heritage.

It is so ordered this 31st day of March, 2014.


Sam A. Lindsay
United States District Judge

^{*} Initially, the court planned to issue a memorandum opinion and order but later decided against such approach, as much of what it would have written would be duplicative of what the magistrate judge set forth in her well-written Report.